



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt a Resolution Authorizing the City Manager to Execute a Contract for professional services to Municipal Compliance Consultants (MCC), Woodland, for Code Enforcement Services

**MEETING DATE:** February 7, 2007

**PREPARED BY:** Community Improvement Manager

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**RECOMMENDED ACTION:** Adopt a Resolution Authorizing the City Manager to Execute a Contract for professional services to Municipal Compliance Consultants (MCC), Woodland, for Code Enforcement Services

**BACKGROUND INFORMATION:** The Community Development Department budgeted and was approved for \$75,000 in the 2006/07 Budget for professional services, specifically for a part-time, contract Senior Code Enforcement Officer.

The Community Development Department followed up with respondents to a previous Request for Proposals for contract code enforcement services, Willdan and MCC, and received the following quotes:

Willdan	\$85/hour
MCC	\$65/hour

In addition to being the low bidder, the fact that the person provided through MCC has previously worked for the City of Lodi as a contract code enforcement officer provided further justification to award the contract for services to MCC.

The contract services of this Senior Community Improvement Officer will provide direct field supervision and assistance to our current Community Improvement Staff and will coordinate all current and future proactive enforcement projects in a more timely and efficient manner. This focuses the majority of the enforcement on Lodi's Eastside neighborhoods, where the bulk of the demand for services has historically been identified.

We have entered into an interim contract for professional services with MCC since December of 2006, with a not to exceed limit of \$19,900, until the formal, full contract can be approved by the City Council (see attached agreement).

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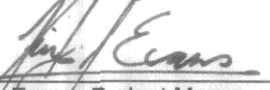
**APPROVED:**   
Blair King, City Manager

**FISCAL IMPACT:**

For the remainder of the 2006/07 fiscal year, we expect the cost of these professional services to be approximately \$31,200. The Community Development Special Revenue Fund will be supplemented through the various revenues that this position will generate through normal code enforcement activities, such as fines, assessments and reimbursement through the Vehicle Abatement Service Authority fund.

**FUNDING AVAILABLE:**

2006/07 Budget – 340456.7323 Professional Services

  
Kirk Evans, Budget Manager

  
Joseph Wood  
Community Improvement Manager

Concurred:   
Randy Hatch  
Community Development Director

## **AGREEMENT FOR PROFESSIONAL SERVICES**

### **ARTICLE 1 PARTIES AND PURPOSE**

#### **Section 1.1 Parties**

THIS AGREEMENT is entered into as of \_\_\_\_\_, 2007, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and MUNICIPAL COMPLIANCE CONSULTANTS (hereinafter "CONSULTANT").

#### **Section 1.2 Purpose**

CITY selected the CONSULTANT to render certain professional services to the CITY.

CITY wishes to enter into an agreement with CONSULTANT to perform those services as set forth in the Scope of Services attached hereto as Exhibit A and incorporated by this reference. CONSULTANT acknowledges that it is qualified to provide such services to CITY.

### **ARTICLE 2 SCOPE OF SERVICES**

#### **Section 2.1 Scope of Services**

CONSULTANT, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A, attached and incorporated by this reference.

#### **Section 2.2 Time for Commencement and Completion of Work**

CONSULTANT shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONSULTANT shall submit to CITY such reports, diagrams, drawings and surveys as may be indicated in the Scope of Services.

CONSULTANT shall not be responsible for delays caused by the failure of CITY staff or agents to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project from which the Scope of Services is required shall not be counted against CONSULTANT's

contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONSULTANT shall remain in contact with reviewing agencies, if any, and make all efforts to review and return all comments received therefrom.

### **Section 2.3 Meetings**

CONSULTANT shall attend meetings as indicated in the Scope of Services.

### **Section 2.4 Staffing**

CONSULTANT acknowledges that CITY has relied on CONSULTANT's capabilities and on the qualifications of CONSULTANT's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONSULTANT, unless otherwise agreed to by CITY in writing. CITY shall be notified by CONSULTANT of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel in CITY's sole discretion and shall be notified by CONSULTANT of any changes of CONSULTANT's project staff prior to any change.

CONSULTANT represents that it has thoroughly investigated and considered the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONSULTANT represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that are legally required for CONSULTANT to practice its profession, and that CONSULTANT shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

### **Section 2.5 Subcontracts**

CITY acknowledges that CONSULTANT may subcontract certain portions of the Scope of Services to subconsultants as specified and identified in Exhibit A. Should any subconsultants be replaced or added after CITY's approval, CITY shall be notified within ten (10) days and said subconsultants shall be subject to CITY's approval prior to initiating any work under the Scope of Services. CONSULTANT shall remain fully responsible for the complete and full performance of services performed by subconsultants and shall pay the fees and costs incurred by all such subconsultants.

## **ARTICLE 3** **COMPENSATION**

### **Section 3.1    Compensation**

CONSULTANT's compensation for all work under this Agreement shall conform to the provisions of Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONSULTANT shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

### **Section 3.2    Method of Payment**

CONSULTANT shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable.

### **Section 3.3    Costs**

The fees shown on Exhibit B include all reimbursable costs required for the performance of the individual work tasks by CONSULTANT and/or subconsultant and references to reimbursable costs located on any other fee schedule(s) shall not apply. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in writing by CITY.

CONSULTANT charge rates are attached and incorporated with Exhibit B. The charge rates for CONSULTANT shall remain in effect and unchanged for the duration of this Agreement unless approved in writing by CITY.

### **Section 3.4    Auditing**

CITY reserves the right to periodically audit all charges made by CONSULTANT to CITY for services under this Agreement. Upon request, CONSULTANT agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONSULTANT agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONSULTANT agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with

this requirement. CONSULTANT further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

## **ARTICLE 4**

### **MISCELLANEOUS PROVISIONS**

#### **Section 4.1 Nondiscrimination**

In performing services under this Agreement, CONSULTANT shall not discriminate in the employment of its employees or in the engagement of any subconsultants on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

#### **Section 4.2 Responsibility for Damage**

CONSULTANT shall indemnify and save harmless the City of Lodi, the City Council, elected and appointed Boards, Commissions, all officers and employees or agents from any suits, claims or actions brought by any person or persons for or on account of any injuries or damages sustained or arising from the services performed under this Agreement, but only to the extent caused by the negligent acts, errors or omissions of the CONSULTANT and except those injuries or damages arising out of the active negligence of CITY or its agents, officers or employees.

#### **Section 4.3 No Personal Liability**

Neither the City Council, nor any other officer or authorized assistant or agent or employee of CITY shall be personally responsible for any liability arising under this Agreement.

#### **Section 4.4 Responsibility of CITY**

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

#### **Section 4.5 Insurance Requirements for CONSULTANT**

CONSULTANT shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect CONSULTANT and any subcontractor performing work covered under this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from CONSULTANT'S operations under this Agreement, whether such operations be by CONSULTANT or by any subcontractor

or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. COMMERCIAL GENERAL LIABILITY

\$1,000,000 Bodily Injury -

Ea. Occurrence/Aggregate

\$1,000,000 Property Damage -

Ea. Occurrence/Aggregate

or

\$1,000,000 Combined Single Limits

2. COMMERCIAL AUTOMOBILE LIABILITY

\$1,000,000 Bodily Injury - Ea. Person

\$1,000,000 Bodily Injury - Ea. Occurrence

\$1,000,000 Property Damage - Ea. Occurrence

or

\$1,000,000 Combined Single Limits

NOTE: CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage.

A copy of the certificate of insurance with the following endorsements shall be furnished to CITY:

(a) Additional Named Insured Endorsement

Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents and Employees as additional named insureds insofar as work performed by the insured under written Agreement with CITY. (This endorsement shall be on a form furnished to CITY and shall be included with CONSULTANT'S policies.)

(b) Primary Insurance Endorsement

Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.

(c) Separation of Insured's Clause

The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(d) Notice of Cancellation or Change in Coverage Endorsement

This policy may not be canceled by the company without 30 days' prior written notice of such cancellation to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA 95241, except as to a 10-day notice for non-payment of premium

- (e) CONSULTANT agrees and stipulates that any insurance coverage provided to CITY shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810, et seq.). "Claims made" coverage requiring the insureds to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

**Section 4.6 Worker's Compensation Insurance**

CONSULTANT shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of CONSULTANT'S employees employed to perform work hereunder and, if any work is sublet, CONSULTANT shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CONSULTANT. In case any class of employees engaged in hazardous work under this Agreement is not protected under the Worker's Compensation Statute, CONSULTANT shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the City Attorney, City of Lodi, P.O. Box 3006, Lodi, CA 95241.

**Section 4.7 Time of the Essence**

Time is of the essence in the performance of this Agreement.

**Section 4.8 Successors and Assigns**

CITY and CONSULTANT each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONSULTANT shall not assign or transfer any interest in this Agreement



without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

#### **Section 4.9 Notices**

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or in three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi  
Blair King, City Manager  
221 West Pine Street  
P.O. Box 3006  
Lodi, CA 95241-1910

To CONSULTANT: Municipal Compliance Consultants  
Chris Wiggins, Principal/Code Compliance Specialist  
P.O. Box 2295  
Woodland, CA 95776-2295

#### **Section 4.10 Cooperation of CITY**

CITY shall cooperate fully in a timely manner in providing relevant information that it has at its disposal relevant to the Scope of Services.

#### **Section 4.11 CONSULTANT is Not an Employee of CITY**

It is understood that CONSULTANT is not acting hereunder in any manner as an employee of CITY, but solely under this Agreement as an independent contractor.

#### **Section 4.12 Termination**

CITY or CONSULTANT may terminate this Agreement by giving the other party at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONSULTANT shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONSULTANT shall immediately suspend all work under this Agreement and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONSULTANT with third parties in reliance upon this Agreement.

**Section 4.13 Severability**

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

**Section 4.14 Captions**

The captions of the sections and subsections of this Agreement are for the convenience of the parties hereto only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

**Section 4.15 Integration and Modification**

This Agreement represents the entire integrated agreement between CONSULTANT and CITY; supersedes all prior negotiations, representations, or Agreements, whether written or oral, between the parties; and may be amended only be written instrument signed by CONSULTANT and CITY.

**Section 4.16 Applicable Law and Venue**

This Agreement shall be governed by the laws of the State of California. Venue for any court proceeding brought under this Agreement will be with the San Joaquin County Superior Court.

**Section 4.17 Attorney's Fees**

In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

**Section 4.18 Contract Terms Prevail**

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

**Section 4.19 Authority**

The undersigned hereby represent and warrant that they are authorized by the parties they purport to represent to execute this Agreement.

**Section 4.20 Ownership of Documents**

All documents, photographs, reports, analyses, audits, computer tapes or cards, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONSULTANT shall allow CITY to inspect all

such documents during CONSULTANT'S regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONSULTANT to CITY within ten (10) days.

CITY agrees to indemnify, defend and hold CONSULTANT harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were prepared.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

By \_\_\_\_\_  
RANDI JOHL  
CITY CLERK

By \_\_\_\_\_  
BLAIR KING  
CITY MANAGER

APPROVED AS TO FORM:

MUNICIPAL COMPLIANCE  
CONSULTANTS

By \_\_\_\_\_  
D. STEPHEN SCHWABAUER  
CITY ATTORNEY

By: \_\_\_\_\_  
CHRISTINE WIGGINS  
PRINCIPAL

## **AGREEMENT FOR PROFESSIONAL SERVICES**

### **EXHIBIT A SCOPE OF SERVICES**

CONSULTANT will provide professional services in the form of a Code Enforcement Officer to perform housing, dangerous building, zoning, property maintenance, vehicle abatement, nuisance and miscellaneous municipal code enforcement inspections, prepare required Notices and documentation related to those inspections and investigations, prepare cases for both administrative and criminal prosecution, the ability to provide supervision of code enforcement personnel, and to perform other related duties of a Community Improvement Officer for the City of Lodi Community Improvement Department.

CONSULTANT will provide a contract Code Enforcement Officer part-time for a total of 24 hours a week and/or full-time for a total of 40 hours a week. Work hours will be between 7:00 A.M. and 5:00 P.M., Monday – Friday; however the client does reserve the right to adjust work days and hours as needed.

## **AGREEMENT FOR PROFESSIONAL SERVICES**

### **EXHIBIT B COMPENSATION**

The CONSULTANT'S compensation for this service will be \$65.00 per hour. This includes all mileage and required insurance including professional liability. The contract hourly rate will not exceed the contract price, which will become the fixed price upon completion of contract negotiations.

RESOLUTION NO. 2007-16

A RESOLUTION OF THE LODI CITY COUNCIL  
AUTHORIZING THE CITY MANAGER TO EXECUTE  
A PROFESSIONAL SERVICES CONTRACT WITH  
MUNICIPAL COMPLIANCE CONSULTANTS FOR  
CODE ENFORCEMENT SERVICES

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Contract with Municipal Compliance Consultants for code enforcement services at a cost not to exceed the Community Development Department's 2006-07 budgeted amount of \$75,000.

Dated: February 7, 2007

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I hereby certify that Resolution No. 2007-16 was passed and adopted by the City Council of the City of Lodi in a regular meeting held February 7, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Katzakian, Mounce,  
and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL  
City Clerk